



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,843	04/27/2001	Stephan D. Fopeano	PW 280403	8696

7590 09/07/2005

William S Frommer  
Frommer Lawrence & Haung LLP  
745 Fifth Avenue  
New York, NY 10151

EXAMINER

HOSSAIN, FARZANA E

ART UNIT	PAPER NUMBER
----------	--------------

2617

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/842,843	FOPEANO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Farzana E. Hossain	2617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 4-27-01.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04-27-01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 23 is objected to because of the following informalities: Lines 5 and 10 recite "lest". The Office assumes "lest" to be "least." Appropriate correction is required.
2. Claim 48 recites the limitation "the server" in Line 11. The Office assumes "the server" to be "a server." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 23 recites the limitation "the schedule-based categorization data" in Line 13. There is insufficient antecedent basis for this limitation in the claim. The Office assumes "the schedule-based categorization data" to be "the categorization data."

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

Art Unit: 2617

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-8, 10-19, 21, 23-27, 29, 31-38, 40, 42-48, 50 are rejected under 35 U.S.C. 102(e) as being anticipated by Cragun et al (US 5,973,683 and hereafter referred to as "Cragun").

Regarding Claim 1, Cragun discloses a method for setting data for discriminating whether to present at least one piece of data content to an audience, the method comprising presenting a plurality of potential discrimination criteria (Figure 3, 62) to a user for review by the user (Figure 3), receiving input selection data that indicates selection of at least one of the plurality of discrimination criteria as a selected discrimination criterion (Figures 2 and 3). Cragun discloses using user profile data to control data content. It is inherent that user profile data, which includes discrimination criteria or censorship ratings, is stored in memory. Cragun discloses presenting a plurality of potential trusted third parties (Figure 2 and Figure 3, 59) to a user for review by the user (Figures 2 and 3). It is inherent that user profile data, which includes discrimination criteria or censorship ratings, is stored in memory. Cragun discloses each of the plurality of potential discrimination criteria indicate at least one characteristic potentially associated with the at least one piece of data content (Figure 3).

Regarding Claims 6 and 23, Cragun discloses a method for selectively presenting and optimizing presentation of at least one piece of data content to an audience based on at least one discrimination criterion (Figure 3, 62) selected by a user and categorization data (party (Figure 2, 64, 66, Figure 3, 65) provided by at least one selected trusted third party (Figure 3, 59) selected by the user (Figure 3), the method

comprising: setting the at least one selected discrimination criterion (Figures 2 and 3), setting the at least one selected, trusted third party (Figures 2 and 3); reviewing categorization data indicative of the at least one piece of data provided by the selected, trusted third party (Figure 3, 59); discriminating whether the at least one selected discrimination criterion selected by the user based on a comparison between the categorization data (Figure 3, 65) and the at least one discrimination criterion (Figure 3, 62); and formulating index data or program data (Column 6, lines 7-11) that indicates whether the at least one piece of data content meets the at least one selected discrimination criterion selected by the user (Figure 5). Regarding Claim 23, Cragun discloses performing a comparison between the categorization data and the at least one discrimination criterion (Figure 3) and discriminating whether a label associated (Column 9, lines 35-38) with the at least one piece of data content should be included in a data content index or program data index based on the comparison between the categorization data (Figure 2, 64, 66, Figure 3, 65) and the at least one discrimination criterion; and presenting the data content index to the audience (Column 9, lines 347-52, Column 10, lines 30-36).

Regarding Claim 32, Cragun discloses customer premises equipment or computer system (Figures 1, 10 and Figure 2, 10) that selectively presents at least one piece of data content or program to an audience or viewer based on at least one selected discrimination criterion (Figure 3, 62) the customer premises equipment comprising: a transceiver (Column 8, lines 61-63) that receives categorization data party (Figure 2, 64, 66, Figure 3, 65), a portion of which is formulated by a trusted third party

(Figure 3, 59) selected by a user (Figure 2, 52), associated with the at least one piece of data content (Figure 3); an interface that receives at least one selected discrimination criterion (Figure 2, 52 and Figure 3), a memory (Figure 1, 14) that is coupled to the transceiver (Figure 1, 16) and the interface (Figure 1, 20) and that stores index data or program data (Column 10, lines 30-36) indicating data content meeting the at least one selected discrimination criterion (Figure 1, 2 14). It is inherent that user profile data, which includes discrimination criteria or censorship ratings, is stored in memory. Cragun discloses a processor (Figure 1, 12) that is coupled to the memory (Figure 1, 11, 12, 14) and formulates a presentation index listing data content (Column 10, lines 50-60) that meets the at least one selected discrimination criterion based on the index data stored in the memory (Column 9, lines 27-45, Column 10, lines 50-60). It is inherent that a controller is coupled and controls operation of the transceiver, interface, memory and processor as this a computer system.

Regarding Claim 48, Cragun discloses a system that selectively presents at least one piece of data content to an audience based on at least one selected discrimination criterion selected by a user (Figure 3, 62) and categorization data (Figure 3, 64-66) provided by at least one selected, trusted third party (Figure 3, 59) selected by the user, the system comprising: a memory (Figure 1, 14). It is inherent that index data or program data, which includes discrimination criteria or censorship ratings, is stored in memory. Cragun discloses a client/server network in which the client is one computer accessing the resources of another computer or server (Column 8, lines 47-55). It is inherent that the system includes a processor, which is coupled to a server. The server

Art Unit: 2617

(Column 8, lines 56-65) processes and generates index data or program data by analyzing data content should be presented based on the selected discrimination criterion and the trusted third party (Figures 2 and 3). Cragun discloses customer premises equipment (Figure 1, 10 and Figure 2, 10) that selectively presents the at least one piece of data content to an audience based on the index data (Column 9, lines 47-52 and Column 10, lines 50-60).

Regarding Claim 2, Cragun discloses all the limitations of Claim 1. Cragun discloses that presenting is performed by displaying the plurality of potential discrimination criteria using a graphical user interface (Figure 3, Figure 2, 36, 22).

Regarding Claims 3, 12, 26, and 36, Cragun discloses all the limitations of Claims 1, 11, 25 and 35 respectively. Cragun discloses the at least one characteristic indicates subject matter of the at least piece of data content (Figure 3).

Regarding Claims 4, 13, 27 and 37, Cragun discloses all the limitations of Claims 3, 12, 25 and 35. Cragun discloses the at least one characteristic includes a level of activity contained in the subject matter of the at least one piece of data content (Figure 3, 62, 65).

Regarding Claim 5, 14, 38, Cragun discloses all the limitations of Claims 1, 12, and 32 respectively. Cragun discloses receiving input selection data includes receiving a time range or blackout during which the selected discrimination criterion should be used to discriminate whether to present the at least one piece of delivered data content to the audience (Column 10, lines 44-49).

Regarding Claim 7, Cragun discloses all the limitations of Claim 6. Cragun discloses selectively outputting to a presentation apparatus only data content indicated by the index data as meeting at least one discrimination criterion selected by the user (Column 8, lines 10-23, Column 10, lines 50-60).

Regarding Claim 8, Cragun discloses all the limitations of Claim 6. Cragun discloses selectively receiving at customer premises equipment only data content indicated by the index data as meeting the at least one discrimination criteria selected by the user (Column 8, lines 10-23, Column 10, lines 50-60).

Regarding Claims 10 and 24, Cragun discloses all the limitations of Claim 6 and 23 respectively. Cragun discloses presenting a plurality of potential discrimination criteria to a user for review by the user (Figure 3); receiving input selection data that selects at least one of the pluralities of potential discrimination criteria as a selected discrimination criterion (Figure 2, 52, Figure 3). It is inherent that user profile data, which includes discrimination criteria or censorship ratings, is stored in memory.

Regarding Claims 11, 25, and 35, Cragun discloses all the limitations of Claims 10, 24 and 32 respectively. Cragun discloses each of the plurality of discrimination criteria indicate at least one characteristic potentially associated with the at least one piece of data content (Figure 3, 62).

Regarding Claim 15, Cragun discloses all the limitations of Claim 6. Cragun discloses setting the least one selected, trusted third party comprising presenting a plurality of potential trusted third parties to a user for review by the user (Figure 3, 59); receiving input selection data that indicates selection of at least one of the plurality of



Art Unit: 2617

potential trusted third parties as a selected trusted third-party (Figure 2, 52 and Figure 3). It is inherent that user profile data, which includes selected trusted third parties for censoring, is stored in memory.

Regarding Claim 16, Cragun discloses all the limitations of Claim 15. Cragun discloses each of the plurality of potential trusted third parties provides categorization data about the at least one piece of data content (Figure 3, 59, Column 9, lines 53-67, Column 10, lines 1-7).

Regarding Claim 17 and 46, Cragun discloses all the limitations of Claims 6 and 32 respectively. Cragun discloses that the at least one selected discrimination criterion is schedule-based (Column 10, lines 44-49) in that the at least one selected discrimination criterion includes an indication of a time range or blackout during which the selected discrimination criterion should be used to discriminate whether to present the at least one piece of delivered data content to the audience (Column 10, lines 44-49).

Regarding Claim 18 and 47, Cragun discloses all the limitations of Claims 6 and 32 respectively. Cragun discloses that the categorization data corresponds to data content (Figure 2, 64, Column 10, lines 3-7), including the at least one piece of data content, that is broadcast based on a schedule (Figure 2, 64).

Regarding Claim 19, 29 and 40, Cragun discloses all the limitations of Claim 6, 24 and 32 respectively. Cragun discloses the at least one piece of data content is audio-visual data or a television program (Column 10, lines 58-60).

Regarding Claim 21, 31 and 42, Cragun discloses all the limitations of Claim 6, 24 and 32 respectively. Cragun discloses the at least one piece of data content is multimedia data or a television program (Column 10, lines 58-60).

Regarding Claim 33, Cragun discloses all the limitations of Claim 32. Cragun discloses the interface includes a display that presents a plurality of potential discrimination criteria to a user (Figure 2, 36, 22 and Figure 3).

Regarding Claim 34, Cragun discloses all the limitations of Claim 33. Cragun discloses that the display presents the plurality of potential discrimination criteria using a graphical user interface (Figure 3, Figure 2, 36, 22).

Regarding Claim 43, Cragun discloses all the limitations of Claim 32. It is inherent that the controller controls the processor in the customer premises equipment or computer system. Therefore, the controller controls the processor to output only data content indicated by the index data as meeting the at least one discrimination criteria selected by the user (Column 8, lines 10-23, Column 10, lines 50-60).

Regarding Claim 44, Cragun discloses all the limitations of Claim 32. It is inherent that the controller controls the transceiver. Cragun discloses that the receiver can be a television tuner (Column 7, lines 48-49) and that computer system controls the receiver (Column 8, lines 1-3) to receive only data content indicated by the index data as meeting the at least one discrimination criteria selected by the user or omitting channels and programs via the transceiver (Column 8, lines 10-23, Column 10, lines 50-60).

Regarding Claim 45, Cragun discloses all the limitations of Claim 32. Cragun discloses that the transceiver receives data content indicated by the index data as meeting the at least one discrimination criteria selected by the user (Column 8, lines 1-23, Column 10, lines 50-60).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun in view of Ellis et al (US 6,898,762 and hereafter referred to as "Ellis").

Regarding Claim 9, Cragun discloses all the limitations of Claim 6. Cragun does not disclose selectively transmitting only data content indicated by the index data as meeting the at least one discrimination criteria selected by the user. Ellis discloses selectively transmitting only data content indicated by the index data or preference profiles as meeting the at least one discrimination criteria selected by the user (Column 15, lines 43-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cragun to selectively transmit only data

content indicated by the index data or preference profiles as meeting the at least one discrimination criteria selected by the user (Column 15, lines 43-50) as taught by Ellis in order to provide an interactive television program guide system (Column 1, lines 38-42) as closed by Ellis.

9. Claims 20, 30, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun in view of Hunter et al (US 5,485,518 and hereafter referred to as "Hunter").

Regarding Claims 20, 30 and 41, Cragun discloses all the limitations of Claim 6, 24 and 32 respectively. Cragun does not disclose that at least one piece of data content is audio data. Hunter discloses that at least one piece of data content is audio data or a radio program (Column 2, lines 49-65, Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cragun to have at least one piece of data content is audio data (Column 2, lines 49-65) as taught by Hunter in order to provide a choice to the listener for appropriate audio data (Column 1, lines 9-14) as disclosed by Hunter.

10. Claims 22, 28, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cragun in view of Russell-Falla et al (US 6,266,664 and hereafter referred to as "Russell").

Regarding Claims 22, 28 and 39, Cragun discloses all the limitations of Claim 6, 24 and 32 respectively. Cragun does not disclose that at least one piece of data

Art Unit: 2617

content is text data. Russell discloses that at least one piece of data content is text data or a downloaded web page or digital data (Column 3, lines 4-9, lines 52-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Cragun to one piece of data content is text data or a downloaded web page or digital data (Column 3, lines 4-9, lines 52-67) as taught by Russell in order to download vast amounts of information (Column 1, lines 546-56) and also to block inappropriate material (Column 2, lines 24-31) as disclosed by Russell.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. West et al (US 5,550,575) and Leung et al (US 2002/0095673).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farzana E. Hossain whose telephone number is 571-272-5943. The examiner can normally be reached on Monday to Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FEH  
August 25, 2005

  
CHRIS KELLEY  
SUPERVISOR, PATENT EXAMINER  
TECHNOLOGY CENTER 2600